

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3854 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

=====

1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

-----

JAYABEN S PANCHAL

Versus

DISTRICT DEVELOP OFFICER

-----  
Appearance:

MR NK MAJMUDAR for Petitioners

MR SANDIP C SHAH for Respondent No. 1

RULE SERVED for Respondent No. 2, 3

-----  
CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 08/09/2000

ORAL JUDGEMENT :

This petition is filed by two petitioners, who  
were serving as Auxiliary Nurse Midwife. Petitioner no.1  
was serving at village Fokdi, Taluka Jhagadia, District

Bharuch. Petitioner No.2 was serving at Dharoli, Taluka Jhagadia, District Bharuch. The present petition is filed against the apprehended termination alleging that the respondent authorities had held interview on 23.1.1990 and that the petitioners were likely to be terminated on the basis of the performance of the petitioners in that interview. Mr.Majmudar, learned advocate for the petitioners invited attention of the Court to the contents of para 5 of the petition, wherein it is set out as to how the petitioners were interviewed. It is prayed that in light of those averments the respondents shall be restrained from terminating the services of the petitioners on the basis of such interview.

2. This Court has passed a detailed order on 23.5.1990, which reads as under :

"Notice pending admission returnable on June 13, 1990. Mr.SC Shah waives service of notice on behalf of respondents. Having regard to the facts and circumstances of the case and having regard to the ad interim order passed on 16th May 1990 in Special C.A. No.3716/90 in which similar questions are involved, it is directed that the candidates who might have been selected by respondent no.3 and who may be required to be appointed on the posts for which they are selected, they may be appointed on such posts. However, their appointment shall be on vacant posts which may be there with respondent nos.1 and 2. Only after making appointments on vacant posts if there remains surplus of the candidates selected, then only respondent nos.1 and 2 may resort to termination of the services of the petitioners or any one of them in accordance with seniority, i.e. service of the Junior-most may be terminated first. Even if the order of termination of the services of any of the petitioners is already passed and still has not been served upon the petitioner, the respondents are directed to take into consideration the aforesaid direction. The order of termination of services even though passed shall be implemented only after the aforesaid condition is fulfilled.

It is further directed that even if the order of termination is passed and it may be required to be implemented, the same shall be subject to the result of the petition."

3. Now. it is given out by Shri Majmudar, learned advocate that thereafter petitioner no.1, to whom he could contact is already re-employed and appointed in 1992 and since then she has been working. As regards appointment of petitioner no.2 is concerned, Shri Majmudar has no specific instructions. Be that as it may. The present petition is filed only against apprehended termination. Therefore, the same cannot be allowed to pend any more and no relief can be granted in this petition.

4. The petition is, therefore, disposed of. Rule is discharged. Interim orders are vacated. No order as to costs.

8th September 2000 (Ravi R. Tripathi, J.)

karim\*